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April 22, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

Re: Oral and Written Ex Parte Presentations -
WT Docket No. 02-353

Dear Ms. Dortch:

Council Tree Communications, Inc. ("Council Tree") hereby gives notice of oral and written ex parte presentations in the referenced proceeding. The substance of Council Tree's oral presentation was consistent with its previous submission in that proceeding. Council Tree's written presentation was in the form of the attached memorandum.

Council Tree's presentations were made to Sheryl J. Wilkerson in the office of Chairman Powell.

One copy of Council Tree's written presentation is being submitted electronically herewith pursuant to Section 1.1206(b)(1) of the Commission's Rules.

Sincerely,

/s/ Steve C. Hillard

Steve C. Hillard

Enclosure

ENSURING REAL OPPORTUNITIES FOR SMALLER BUSINESSES TO PARTICIPATE IN THE PROVISION OF SPECTRUM-BASED SERVICES

(RM-10956; WT Docket No. 02-353)

I. The Commission Must Safeguard its Designated Entity (“DE”) Program

A. The Problem

- The Commission does not count *personal wealth* in assessing the size of a business that applies for DE benefits
- High net worth individuals — often wireless industry veterans — parlay wealth and contacts into sweetheart deals
- Legitimate new entrants are excluded

B. The Solution

- Follow the Small Business Administration’s lead
- Institute a *personal net worth test* for small business eligibility
- Attribute the personal net worth of a “controlling interest” individual if he or she, directly or indirectly, has an appreciable equity ownership interest in the applicant (1 percent or more)

II. The Commission Must Improve Opportunities for DEs in the Upcoming Advanced Wireless Services (“3G”) Auction

A. This is a Critical Auction

- 90 MHz Band of Spectrum
- May be used for wireless voice and data applications
- Will augment systems of existing wireless carriers

B. To Mirror the Opportunities Offered to DEs in the Broadband PCS Auctions, the Commission Should Set Aside 3G “Block D” for Bidding Only by Smaller Businesses

- Block D is comprised of 10 MHz MSA/RSA Authorizations
- Commission determined these licenses to be well-suited for new entrants
- Set-aside is similar to approach used in broadband PCS auctions

C. In the Alternative, the Commission Should Offer a New Bidding Credit Level in the Auction

- Currently 15 percent (\$40 million gross revenues)
 25 percent (\$15 million gross revenues)
- Add 35 percent (\$3 million gross revenues)